रजिस्ट्री सं० डी० 221 REGISTERED NO. D. 221

भारत का राजपत्र
The Gazette of India

असाधारण
EXTRAORDINARY
भाग II—खण्ड 2
PART II—Section 2
प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं० 32ए०] नई दिल्ली, बुधवार, अगस्त 12, 1970/श्रावण 21, 1892 (शक)
No. 32A] NEW DELHI, WEDNESDAY, AUGUST 12, 1970/SRAVANA 21, 1892 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

The following report of the Select Committee on the Bill further to amend the Advocates Act, 1961 was presented to Lok Sabha on the 12th August, 1970:—

COMPOSITION OF THE COMMITTEE

Shri R. D. Bhandare—*Chairman*

MEMBERS

2. Shri D. K. Kunte.
3. Shri J. K. Choudhury.
4. Shri Shivajirao S. Deshmukh.
5. Shri A. K. Gopalan.
6. Shri Shri Chand Goyal.
7. Shri S. M. Joshi.
8. Shri Vikram Chand Mahajan.
*9. Shri P. Govinda Menon.
10. Shri Srinibas Mishra.
11. Shri F. H. Mohsin.
12. Shri H. N. Mukerjee.
13. Shri Anand Narain Mulla.

* Died on the 23rd May, 1970

14. Shri Jagannath Pahadia.
15. Shri Viswa Nath Pandey.
16. Chaudhuri Randhir Singh
17. Shri K. Narayana Rao.
18. Shrimati Savitri Shyam.
19. Shri A. K. Sen.
20. Shri Shantilal Shah.
21. Shri Tenneti Viswanatham.
22. Shri G. Viswanathan.
23. Shri S. Xavier.
24. Shri Mohammed Yunus Saleem.

REPRESENTATIVES OF THE MINISTRY OF LAW

1. Shri P. B. Venkatasubramanian, *Joint Secretary and Legal Law.*
2. Shri P. L. Gupta, *Additional Legislative Counsel, Ministry of Law.*
3. Shri Dalip Singh, *Deputy Legal Adviser, Ministry of Law.*

SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary.*

REPORT OF THE SELECT COMMITTEE

I, the Chairman of the Select Committee to which the Bill* further to amend the Advocates Act, 1961, as passed by Rajya Sabha was referred, having been authorised to submit the Report on their behalf, present their Report.

2. The motion for reference of the Bill to a Select Committee was moved by Shri Mohammed Yunus Saleem, the then Deputy Minister in the Ministry of Law and in the Department of Social Welfare on the 8th December, 1969 which was discussed and adopted on the same day. (Appendix I).

3. The Committee held 9 sittings in all.

4. The first sitting of the Select Committee was held on the 17th December, 1969 to draw up their future programme of work. At this sitting the Committee decided that a Press Communique inviting memoranda on the provisions of the Bill from individuals, public bodies, Bar Councils, Bar Associations High Courts, Advocates General of States and Law Faculties of various Universities, should be issued. The Committee authorised the Chairman to select the parties for oral evidence after receipt of written memoranda and requests for oral evidence. The last date for receipt of memoranda and requests for oral evidence was the 17th January, 1970. At their second sitting held on the 27th January, 1970, the Committee took note of the poor publicity given by the Press to their Press Communique and decided to extend the date for receipt of memoranda and requests for oral evidence up to the 10th February, 1970 and issued a Press Communique in this behalf. At this sitting the Committee also decided to address a circular letter to all State Bar Councils and all High Court Bar Associations inviting their comments on the provisions of the proposed legislation.

5. Fifteen memoranda/representations were received by the Committee from different Bar Councils/individuals etc. on the provisions of the Bill which were circulated to the Members of the Committee.

6. At their fourth and fifth sittings held on the 18th and 19th February, 1970, the Committee heard the evidence given by the representatives of the Bar Council of India, New Delhi and the Mysore State Bar Council, Bangalore respectively. (Appendix III).

7. The report of the Committee was to be presented to the House by the first day of the Tenth Session. As this could not be done, the Committee at their fourth sitting held on the 18th February, 1970 decided to ask for an extension of time for the presentation of their Report upto the first day of the second week of the Eleventh Session. Necessary motion was brought before the House and adopted on the 20th February, 1970. The Committee at their eighth sitting held on the 31st July, 1970 again decided to ask for further extension of time upto the first day of the Twelfth Session for the presentation of their Report, which was granted by the House on the 3rd August, 1970.

*The Bill was published in the Gazette of India, Extraordinary Part II Section 2, dated The 31st August, 1968, and passed by Rajya Sabha on the 16th December, 1968.

8. The Committee also decided that the evidence given before the Committee should not be printed but a cyclostyled copy thereof laid on the Table of the House and also kept in the Parliament Library.

9. At the sixth sitting of the Committee held on the 12th March, 1970 the Minister-in-charge of the Bill had informed the Committee that he contemplated to bring forward a comprehensive Bill during the current Session (Budget Session, 1970) to replace the Bill which was under consideration of the Committee. The Minister of Law had indicated that the suggestions made by the various Bar Councils, Bar Associations etc., would be incorporated in the new Bill to obviate the piecemeal legislation to amend the Advocates Act, 1961. The Minister of Law also stated that he had in mind to provide for legal aid to poor as also the desirability of including suitable provisions for the recognition of foreign degrees in law for the purpose of practising in the Courts in India on a reciprocal basis with other countries including the United Kingdom. Accordingly a notice of the motion for withdrawal of the Bill was given by the Minister of State in the Ministry of Law (Shri Jaganath Rao), which stood referred to the Select Committee under First proviso to Rule 110 of the Rules of Procedure and Conduct of Business in Lok Sabha.

10. The Committee considered the notice of the motion for withdrawal of the Bill together with the accompanying statement containing reasons therefor at their sitting held on the 11th August, 1970. The Committee also considered and adopted their draft Report on the same day.

11. The Committee recommend that the leave to withdraw the Bill be granted.

R. D. BHANDARE,
Chairman,
Select Committee.

NEW DELHI;
August 11, 1970.

Bill No. XXXIII-CA of 1968

THE ADVOCATES (SECOND AMENDMENT) BILL, 1968

(AS PASSED BY THE RAJYA SABHA ON THE 16TH DECEMBER 1968)

(AS CONSIDERED BY THE SELECT COMMITTEE)

A Bill further to amend the Advocates Act, VTFV

BE it enacted by Parliament in the Nineteenth Year of the Republic of India as follows:—

1. (*1*) This Act may be called the Advocates (Second Amendment) Act, 1968. Short title and commencement.

(*2*) *It* shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of section 1.

2. In section 1 of the Advocates Act, 1961 (hereinafter referred to as the principal Act), 25 of 1961.—

(*a*) for sub-section (*2*), the following sub-section shall be substituted, namely:—

"(*2*) It extends to the whole of India.";

(*b*) in sub-section (*3*), for the words "shall come into force", the words, brackets and figure "shall, in relation to the territories other than those referred to in sub-section (*4*), come into force" shall be substituted;

(c) after sub-section (*3*), the following sub-section shall be inserted, namely:—

"(*4*) This Act shall, in relation to the State of Jammu and Kashmir and the Union territory of Goa, Daman and Diu, come into force on such date as the Central Government may, by notification in the Official Gazette, appoint in this behalf, and different dates may be appointed for different provisions of this Act."

Amendment of section 2.

3. In section 2 of the principal Act,—

(*a*) for clause (*a*), the following clause shall be substituted, namely:—

'(*a*) "advocate" means an advocate entered in any roll under the provisions of this Act and includes a person who has been a vakil or a pleader or an attorney and is entered in any such roll;'

(*b*) clause (*f*) shall be omitted;

(*c*) in sub-clause (*ii*) of clause (*g*), for the words "the High Court of Punjab", the words "the High Court of Delhi" shall be substituted.

Amendment of section 3.

4. In section 3 of the principal Act,—

(*a*) in sub-section (*1*),—

(*i*) in clause (*a*), after the word "Gujarat,", the words "Jammu and Kashmir," shall be inserted;

(*ii*) in clause (ccc), for the words "the Union territory of Dadra and Nagar Haveli,", the words "the Union territories of Dadra and Nagar Haveli and Goa, Daman and Diu," shall be substituted;

(*b*) in sub-section (*2*),—

(*i*) in clause (*a*), for the words "in the case of the State Bar Council of Delhi, the Additional Solicitor-General of India, *ex-officio*;", the following words shall be substituted, namely:—

"in the case of the State Bar Council of Assam and Nagaland, the Advocate-General of each of the States of Assam and Nagaland, *ex-officio;* in the case of the State Bar Council of Punjab and Haryana, the Advocate-General of each of the States of Punjab and Haryana, *ex-officio;* in the case of the State Bar Council of Delhi, an advocate nominated by the Attorney-General of India;";

(*ii*) in clause (*b*), for the words "the Bar Council of Assam", the words "the Bar Council of Assam and Nagaland, the Bar Council of Jammu and Kashmir" shall be substituted;

(c) for sub-section (*3*), the following sub-sections shall be substituted, namely:—

"(*3*) (*a*) For each of the Bar Councils of the States referred to in clause (*a*) of sub-section (*1*), the Advocate-General of the State concerned shall be its Chairman;

(*b*) for the Bar Council referred to in clause (*b*) of sub-section (*1*), the Advocate-General of the State of Assam or, as the case may be, the Advocate-General of the State of Nagaland, whoever has been holding such office continuously for a longer time, shall be its Chairman;

(c) for the Bar Council referred to in clause (c) of sub-section (*1*), the Advocate-General of the State of Kerala shall be its Chairman;

(*d*) for the Bar Council referred to in clause (cc) of sub-section (*1*), the Advocate-General of the State of Madras shall be its Chairman;

(*e*) for the Bar Council referred to in clause (ccc) of sub-section (*1*), the Advocate-General of Maharashtra shall be its Chairman;

(*f*) for the Bar Council referred to in clause (*d*) of sub-section (*1*), the Advocate-General of the State of Punjab or, as the case may be, the Advocate-General of the State of Haryana, whoever has been holding such office continuously for a longer time, shall be its Chairman;

(*g*) for the Bar Council of Delhi, the Chairman shall be elected by the Council in such manner as may be prescribed.

(*3A*) There shall also be a Vice-Chairman of each State Bar Council elected by the Council in such manner as may be prescribed."

Amendment of section 4.

5. In section 4 of the principal Act,—

(*a*) in clause (*a*) of sub-section (*1*), after the word "*ex-officio*", the words, "who shall be the Chairman of the Council" shall be inserted;

(*b*) in sub-section (*2*), for the words "There shall be a Chairman and a Vice-Chairman", the words "There shall also be a Vice-Chairman" shall be substituted;

(*c*) in clause (*i*) of sub-section (*3*), after the words "his election", the words "or till he ceases to be a member of the State Bar Council, whichever is earlier" shall be inserted.

Amendment of section 6.

6. In section 6 of the principal Act, for sub-section (*2*), the following sub-section shall be substituted, namely:—

"(*2*) A State Bar Council may constitute a fund or funds in the prescribed manner—

(*a*) for giving financial assistance to indigent or disabled advocates;

(*b*) for giving legal aid to the poor.".

Amendment of section 7.

7. Section 7 of the principal Act shall be re-numbered as sub-section (*1*) of that section, and—

(*a*) in sub-section (*1*) as so re-numbered, clause (*a*) shall be omitted;

(*b*) after sub-section (*1*) as so re-numbered, the following sub-section shall be inserted, namely:—

"(*2*) The Bar Council of India may constitute a fund in the prescribed manner for giving legal aid to the poor.",

Insertion of new section 7A.

8. After section 7 of the principal Act, the following section shall be inserted, namely:—

Membership in international bodies.

"7A. The Bar Council of India may become a member of international legal bodies such as the International Bar Association or the International Legal Aid Association, contribute such sums as it thinks fit to such bodies by way of subscription or otherwise and authorise expenditure on the participation of its representatives in any international legal Conference or seminar.".

Amendment of section 8.

9. In section 8 of the principal Act,—

(*a*) in sub-section (*1*), the following proviso shall be inserted at the end, namely:—

"Provided that the term of office of members elected to a State Bar Council after the commencement of the Advocates (Amendment) Act, 1966, shall be five years from the date of publication of the result of their election.";

23 of 1966.

(*b*) after sub-section (*2*), the following sub-section shall be inserted, namely:—

"(*3*) In the case of the State Bar Council of Delhi, the term of office of the advocate nominated by the Attorney-General of India under clause (*a*) of sub-section (*2*) of section 3, shall be five years from the date of his nomination:

Provided that such advocate may, by writing under his hand, addressed to the Attorney-General of India resign his office.".

Amendment of section 9.

10. In section 9 of the principal Act,—

(*a*) in sub-section (*1*),—

(*i*) the words, brackets and figures "who possess the qualifications specified in the proviso to sub-section (*2*) of section 3 and" shall be omitted; and

(*ii*) the following proviso shall be inserted at the end, namely:—

"Provided that no person who does not possess qualifications specified in the proviso to sub-section (*2*) of section 3 shall be eligible for being elected or co-opted, as the case may be, as a member of any disciplinary committee.";

(*b*) after sub-section (*2*), the following sub-section shall be inserted, namely:—

"(*3*) Notwithstanding anything contained in sub-section (*1*), any disciplinary committee constituted prior to the commencement of the Advocates (Second Amendment) Act, 1968, may dispose of the proceedings pending before it as if this section had not been amended by the said Act".

Amendment of section 15

11. In section 15 of the principal Act, in clause (*b*) of sub-section (*2*),—

(*a*) after the words "a fund", the words "or funds" shall be inserted;

(*b*) after the words "disabled advocates", the words "or for giving legal aid to the poor" shall be inserted.

Amendment of section 16.

12. In section 16 of the principal Act, in sub-section (*2*), for the words "experience and standing at the Bar", the words 'standing at the Bar or special knowledge or experience in law" shall be substituted.

Amendment of section 17.

13. In section 17 of the principal Act,—

(*a*) in clause (*a*) of sub-section (*1*), for the words "and who, within the prescribed time", the words, figures and letters "including persons, being citizens of India, who before the 15th day of August, 1947, were enrolled as advocates under the said Act in any area which before the said date was comprised within India as defined in the Government of India Act, 1935, and who at any time" shall be substituted;

(*b*) in sub-section (*3*), clause (*c*) shall be omitted.

Substitution of new section for section 20.

14. For section 20 of the principal Act, the following section shall be substituted, namely:—

Special provision for enrolment of certain Supreme Court advocates.

"20. (*1*) Notwithstanding anything contained in this Chapter, every advocate who was entitled as of right to practise in the Supreme Court immediately before the appointed day and whose name is not entered in any State roll may, within the prescribed time, express his intention in the prescribed form to the Bar Council of India for the entry of his name in the roll of a State Bar Council and on receipt thereof the Bar Council of India shall direct that the name of such advocate shall, without payment of any fee, be entered in the roll of that State Bar Council, and the State Bar Council concerned shall comply with such direction.

(*2*) Any entry in the State roll made in compliance with the direction of the Bar Council of India under sub-section (*1*) shall be made in the order of seniority determined in accordance with the provisions of sub-section (*3*) of section 17.

(*3*) Where an advocate referred to in sub-section (*1*) omits or fails to express his intention within the prescribed time, his name shall be entered in the roll of the State Bar Council of Delhi.".

Amendment of section 21

15. In section 21 of the principal Act, for sub-section (*2*), the following sub-section shall be substituted, namely:—

"(*2*) Subject as aforesaid, if any dispute arises with respect to the seniority of any person, it shall be referred to the State Bar Council concerned.".

Substitution of new section for section 22.

16. For section 22 of the principal Act, the following section shall be substituted, namely:—

Certificate of enrolment.

"22. There shall be issued a certificate of enrolment in the prescribed form by the State Bar Council to every person whose name is entered in the roll of advocates maintained by it under this Act.".

Amendment of section 23.

17. In section 23 of the principal Act,—

(*a*) sub-section (*3*) shall be omitted;

(*b*) in sub-section (*4*), for the words, brackets and figures "sub-sections (*1*), (*2*) and (*3*)", the words, brackets and figures "sub-sections (*1*) and (*2*)" shall be substituted.

Amendment of section 24.

18. In section 24 of the principal Act,—

(*1*) in sub-section (*1*),—

(*i*) in clause (*c*),—

(*a*) in sub-clause (*iii*), for the words "if the degree is recognised for the purposes of this Act", the words "which is recognised" shall be substituted;

(*b*) in sub-clause (*iv*), the word "or" shall be omitted; and

(*c*) the words "he is a barrister"; shall be omitted;

(*ii*) in the proviso to clause (*d*),—

(*a*) in clause (*i*), for the words, figures and letters "before the 31st day of March, 1964 or such other later date as may be prescribed", the words, figures and letters "before the 1st day of January, 1969" shall be substituted;

(*b*) after clause (*i*), the following clause shall be inserted, namely:—

"(*ia*) any person who, after the 1st day of January, 1969, obtains a degree in law after undergoing a course in law the duration whereof is not less than three academic years, or obtains a Master's degree or any higher degree in law, from any University in India;";

(*2*) in sub-section (*3*), clause (*b*) shall be omitted.

Substitution of new section for section 26A.

19. For section 26A of the principal Act, the following section shall be substituted, namely:—

Power to remove names from roll.

"26A. A State Bar Council may remove from the State roll the name of any advocate who is dead or from whom a request has been received to that effect.".

Amendment of section 30.

20. In section 30 of the principal Act, for the words "common roll", the words "State roll" shall be substituted.

Amendment of section 34.

21. In section 34 of the principal Act, after sub-section (*1*), the following sub-section shall be inserted, namely:—

"(*1A*) The High Court shall make rules for fixing and regulating by taxation or otherwise the fees payable as costs by any party in respect of the fees of his adversary's advocate upon all proceedings in the High Court or in any Court subordinate thereto."

Amendment of section 35.

22. In section 35 of the principal Act,—

(*a*) after sub-section (*1*), the following sub-section shall be inserted, namely:—

"(*1A*) The State Bar Council may, either of its own motion or on application made to it by any person interested, withdraw a proceeding pending before its disciplinary

committee and direct the inquiry to be made by any other disciplinary committee of that State Bar Council.";

(*b*) in sub-section (*2*), the words "if it does not summarily reject the complaint," shall be omitted;

(*c*) in the *Explanation* for the words "the Additional Solicitor General of India", the words "the advocate nominated by the Attorney-General of India in this behalf" shall be substituted.

Amendment of section 36.

23. In section 36 of the principal Act,—

(*a*) in sub-section (*1*), the words "on the common roll" shall be omitted;

(*b*) in sub-section (*2*), for the words "of its own motion", the words "either of its own motion or on a report by any State Bar Council or on application made to it by any person interested" shall be substituted;

(c) in sub-section (*4*), for the words "before the Bar Council of India", the words "before the disciplinary committee of the Bar Council of India" shall be substituted.

Insertion of new section 36A.

24. After section 36 of the principal Act, the following section shall be inserted, namely:—

Changes in the constitution of disciplinary committees.

"36A. Whenever in respect of any proceeding under section 35 or section 36, a disciplinary committee of the State Bar Council or a disciplinary committee of the Bar Council of India ceases to exercise jurisdiction and is succeeded by another committee which has and exercises jurisdiction, the disciplinary committee of the State Bar Council or the disciplinary committee of the Bar Council of India, as the case may be, so succeeding may continue the proceedings from the stage at which the proceedings were so left by its predecessor committee:

Provided that the advocate concerned may demand that before the proceedings are so continued, the previous proceedings or any part thereof be re-opened or that before any order is passed against him, he be reheard.".

Amendment of section 37

25. In section 37 of the principal Act, in sub-section (*2*),—

(*a*) after the words "such order", the brackets and words "(including an order varying the punishment awarded by the disciplinary committee of the State Bar Council)" shall be inserted;

(*b*) the following proviso shall be inserted at the end, namely:—

"Provided that no order of the disciplinary committee of the State Bar Council shall be varied by the disciplinary committee of the Bar Council of India so as to prejudicially affect the person aggrieved without giving him reasonable opportunity of being heard.".

26. In section 38 of the principal Act,— Amendment of section 38.

(*a*) after the words "such order", the brackets and words "(including an order varying the punishment awarded by the disciplinary committee of the Bar Council of India)" shall be inserted;

(*b*) the following proviso shall be inserted at the end, namely:—

"Provided that no order of the disciplinary committee of the Bar Council of India shall be varied by the Supreme Court so as to prejudicially affect the person aggrieved without giving him reasonable opportunity of being heard."

27. Section 39 of the principal Act shall be omitted. Omission of section 39.

28. Section 40 of the principal Act shall be re-numbered as sub-section (1) of that section, and after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:— Amendment of section 40.

"(2) Where an application is made for stay of the order before the expiration of the time allowed for appealing therefrom under section 37 or section 38, the disciplinary committee of the State Bar Council or the disciplinary committee of the Bar Council of India, as the case may be, may for sufficient cause direct the stay of such order on such terms and conditions as it may deem fit.".

29. In section 41 of the principal Act,— Amendment of section 41.

(*a*) in sub-section (*1*),—

(*i*) clause (*b*) shall be omitted; and

(*ii*) the words "or the common roll, as the case may be" shall be omitted;

(*b*) sub-section (2) shall be omitted.

30. In section 42 of the principal Act, after sub-section (3), the following sub-section shall be inserted, namely:— Amendment of section 42

(*4*) Notwithstanding the absence of the Chairman or any member of a disciplinary committee on a date fixed for the hearing of a case before it, the disciplinary committee may, if it so thinks fit, hold or continue the proceedings on the date so fixed and no such proceedings and no order made by the disciplinary committee in any such proceedings, shall be invalid merely by reason of the absence of the Chairman or member thereof on any such date:

Provided that no final orders of the nature referred to in sub-section (3) of section 35 shall be made in any proceedings unless the Chairman and other members of the disciplinary committee are present."

Insertion of new section 42A.

31. After section 42 of the principal Act, the following section shall be inserted, namely:—

Powers of Bar Council of India and other committees.

"42A. The provisions of sub-sections (*1*), (*2*), (*3*) and (*4*) of section 42 shall, so far as may be, apply in relation to the Bar Council of India, the enrolment committee, the election committee or any other committee of a Bar Council as they apply in relation to the disciplinary committee of a Bar Council.".

Insertion of new section 46A.

32. After section 46 of the principal Act, the following section shall be inserted, namely:—

Financial assistance to State Bar Council.

"46A. The Bar Council of India may, if it is satisfied that any State Bar Council is in need of funds for the purpose of performing its functions under this Act, give such financial assistance as it deems fit to that Bar Council by way of grant or otherwise.".

Amendment of section 48

33. In section 48 of the principal Act, after the words "a member of a Bar Council", the words "or any committee thereof" shall be inserted.

Insertion of new section 48AA.

34. After section 48A of the principal Act, the following section shall be inserted, namely:—

Review

"48AA. The Bar Council of India or any of its committees other than its disciplinary committee, may of its own motion or otherwise review any order passed by it under this Act."

Amendment of section 49.

35. In section 49 of the principal Act, after clause (*ae*), the following clause shall be inserted, namely:—

(*aee*) the minimum qualifications required for admission to a course of degree in any recognised University;".

Substitution of new section for section 49A.

36. For section 49A of the principal Act, the following section shall be inserted, namely:—

Power of Central Government to direct rules to be made or to make or amend rules.

"49A. (*1*) Where the Central Government considers it expedient so to do, it may, by order in writing, direct a Bar Council to make any rules or to amend or revoke any rules already made within such period as it may specify in this behalf.

(*2*) If such Bar Council fails or neglects to comply with such order within the specified period, the Central Government may make the rules or amend or revoke the rules made by that Bar

Council, as the case may be, either in the form specified in the order or with such modifications thereof as the Central Government thinks fit.".

Insertion of new sections 58ABB 58AC 58AD and 58AE.

37. After section 58AB of the principal Act, the following sections shall be inserted, namely:

Special provisions with respect to certain law graduates for being admitted as advocat

"58ABB. Notwithstanding anything contained in this Act or any judgment, decree or order of any court or any resolution passed or direction given by the Bar Council of India, no person who, after having secured a diploma in three years' course in rural services awarded by the National Council for Rural Higher Education, Ministry of Education, Government of India has, before the commencement of the Advocates (Second Amendment) Act, 1968, obtained a degree in law from any University in India, shall be disqualified to be admitted as an advocate on a State roll by reason only that such degree has not been obtained after graduation.

Special provisions with respect to certain persons migrating to India.

1879

58AC. Notwithstanding the repeal by this Act of the provisions of the Legal Practioners Act, 1879, or of any other law relating to the admission and enrolment of legal practitioners (hereinafter in this section referred to as such Act or law), every person who migrates to the territory of India from any area which, before the 15th day of August, 1947, was comprised within India as defined in the Government of India Act, 1935, and who has, before such migration, been a pleader, mukhtar or revenue agent in any such area under any law in force therein, may be admitted and enrolled under the relevant provisions of such Act or law as a pleader, mukhtar or, as the case may be, revenue agent, if he—

(*a*) makes an application for the purpose to the appropriate authority under such Act or law; and

(*b*) is a citzen of India and fulfils other conditions, if any, specified in this behalf by the appropriate authority aforesaid;

and notwithstanding the repeal by this Act of the relevant provisions of such Act or law, every pleader, mukhtar or revenue agent so enrolled shall have the same rights as respects practice in any court or revenue office or before any other authority or person and be subject to the disciplinary jurisdiction of the same authority to which he would be subject under the relevant provisions of such Act or law as if they had not been repealed and accordingly, those provisions shall have effect in relation to such persons.

Special provisions in relation to the Union territory of Goa, Daman and Diu.

58AD. (1) Notwithstanding anything contained in this Act, all persons who, immediately before the date on which the provisions of Chapter III are brought into force in the Union territory of Goa, Daman and Diu were entitled to practise the profession of law (whether by way of pleading or acting or both) under any law in force in the said Union territory or who would have been so entitled had they not been in public service on the said date, shall for the purpose of clause (*a*) of sub-section (1) of section 17, be deemed to be persons who were entered as advocates on the roll of a High Court under the Indian Bar Councils Act, 1926, and every such person may, on an application made in this behalf within such time as may be specified by the Bar Council of Maharashtra, be admitted as an advocate on the State roll maintained in respect of the said Union territory: 38 of 1926.

Provided that the provisions of this sub-section shall not apply to any person who, on the date of the application aforesaid, was not a citizen of India.

(2) Notwithstanding anything contained in this Act, every person who, immediately before the date on which the provisions of Chapter IV are brought into force in the Union territory of Goa, Daman and Diu and was practising the profession of law (whether by way of pleading or acting or both or in any other way) by virtue of the provisions of any law in force in the said Union territory, who does not elect to be or is not qualified to be, enrolled as an advocate under sub-section (1), shall, notwithstanding the repeal by this Act of the relevant provisions of such law, continue to enjoy the same rights as respects practice in any court or revenue office or before any authority or person and be subject to the disciplinary jurisdiction of the same authority which he enjoyed, or, as the case may be, to which he was subject, immediately before the said date and accordingly the relevant provisions of the law aforesaid shall have effect in relation to such persons as if they had not been repealed.

(3) On the date on which this Act or any part thereof comes into force in the said Union territory the law in force in that Union territory which corresponds to this Act or such part and which does not stand repealed by virtue of the provisions of section 50 of this Act, shall also stand repealed.

Special provisions in relation to Jammu and Kashmir.

58AE. (1) Notwithstanding anything contained in this Act, all advocates who, immediately before the date on which the provisions of Chapter III are brought into force in the State of Jammu and Kashmir, were entitled to practise in the High Court of that State or who would have been so entitled had they not been in public service on the said date shall, for the purpose of clause (*a*) of sub-section (1) of section 17, be deemed to be persons who were entered as advocates on the roll of a High

38 of 1926 Court under the Indian Bar Councils Act, 1926, and every such person may, on an application made in this behalf within such time as may be specified by the Bar Council of India, be admitted as an advocate on the State roll maintained in respect of the said State.

(2) Notwithstanding anything contained in this Act, every person who, immediately before the date on which the provisions of Chapter III are brought into force in the State of Jammu and Kashmir, was entitled otherwise than as an advocate to practise the profession of law (whether by way of pleading or acting or both) by virtue of the provisions of any law in force in the said State, or who would have been so entitled had he not been in public service on the said date, may be admitted as an advocate on the State roll maintained in respect of the said State, if he—

(*i*) makes an application for such enrolment in accordance with the provisions of this Act; and

(*ii*) fulfills the conditions specified in clause (*a*), (*b*), (*e*) and (*f*) of sub-section (*1*) of section 24.

(*3*) Notwithstanding anything contained in this Act, every person who, immediately before the date on which the provisions of Chapter IV are brought into force in the State of Jammu and Kashmir, was practising the profession of law (whether by way of pleading or acting or both or in any other way) by virtue of the provisions of any law in force therein, who does not elect to be or is not qualified to be enrolled as an advocate under sub-section (*1*) or sub-section (*2*) shall, notwithstanding the repeal by this Act of the relevant provisions of such law, continue to enjoy the same rights as respects practice in any court or revenue office or before any authority or person and be subject to the disciplinary jurisdiction of the same authority which he enjoyed, or as the case may be, to which he was subject, immediately before the said date and accordingly the relevant provisions of the law aforesaid shall have effect in relation to such person as if they had not been repealed.

(*4*) On the date on which this Act or any part thereof comes into force in the State of Jammu and Kashmir, the law in force in that State which corresponds to this Act or such part thereof which does not stand repealed by virtue of the provisions of section 50 of this Act, shall also stand repealed.".

S. L. SHAKDHER,
Secy.

PRINTED BY THE GENERAL MANAGER, GOVERNMENT OF INDIA PRESS, MINTO ROAD, NEW DELHI AND PUBLISHED BY THE MANAGER OF PUBLICATIONS, DELHI, 1971